

IC 10-18-2

Chapter 2. World War Memorials

IC 10-18-2-1

"World war memorial"

Sec. 1. As used in this chapter, "world war memorial" means:

- (1) World War I memorial parks and artificial lakes in World War I memorial parks; or
- (2) World War I structures.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-2

Authority to erect memorials; county authority to erect memorials jointly

Sec. 2. (a) A county may through its county executive acquire by:

- (1) purchase;
- (2) donation; or
- (3) condemnation;

suitable real estate to construct and maintain structures to commemorate the bravery, courage, valor, and sacrifice of the soldiers, sailors, and marines of the United States and of all others who rendered faithful, loyal, heroic, and self-sacrificing service at home or overseas in World War I.

(b) At a world war memorial, a county may do the following:

- (1) Provide a place for meetings and headquarters for organizations of active or retired military personnel or any other patriotic associations.
- (2) Provide storage for the keeping of records, archives, documents, flags, mementos, and relics.
- (3) Provide space for public meetings and for other public purposes.
- (4) Inculcate an understanding and appreciation of the duties, benefits, and privileges of American citizenship.
- (5) Inspire patriotism and respect for the law to the end that peace may prevail.
- (6) Promote good will and justice.
- (7) Perpetuate liberty and freedom.

(c) In addition to the powers provided under subsections (a) and

(b), a county may do the following:

- (1) Acquire by purchase, donation or condemnation any interest in real property to be dedicated by the county and added to any real property that is dedicated by the state for World War Memorial and other public purposes, by proper contract, deed, or grant. The real property acquired shall be conveyed by the county to the state for World War Memorial and other public purposes as provided in the contract, deed, or grant.
- (2) Join with any city located in the county to acquire by purchase, donation, or condemnation, interests in real property to be dedicated by the county and the city jointly and added to any real property that is dedicated by the state for World War

Memorial and other public purposes, by proper contract, deed, or grant. The real property acquired shall be conveyed by the county and city jointly to the state for World War Memorial purposes and other public purposes as provided in the contract, deed, or grant.

(3) Join with any city located in the county to:

(A) acquire by purchase, donation, or condemnation interests in real property;

(B) construct and maintain on the real property a joint city and county World War Memorial; and

(C) use the real property for other public purposes as provided in this chapter.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-3

County executive authority; appropriation; limitation

Sec. 3. (a) A county executive may appropriate, without any appropriation by the county council of the funds of the county for a world war memorial and other public purposes.

(b) Funds appropriated for a world war memorial may not exceed one-half of one percent (0.5%) of the adjusted value of taxable property of the county, to be determined under IC 36-1-15.

(c) The county shall use the funds appropriated to acquire real estate and construct structures for a world war memorial and other public purposes, as authorized by this chapter.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-4

Appropriations; bonds; loans

Sec. 4. (a) A county and its county executive may appropriate money for any or all of the purposes as provided in this chapter:

(1) out of the general funds of the county; or

(2) from the proceeds of a bond issue.

(b) A county may issue and sell bonds for the purpose of raising funds to comply with this chapter.

(c) If:

(1) a county executive decides to establish a world war memorial; and

(2) there is sufficient money in the county's general fund to pay the entire cost of the world war memorial;

money from the county's general fund may be appropriated.

(d) If there is not sufficient money in a county's general fund, the county auditor shall certify to the county executive, who may authorize and make a loan not exceeding one-half of one percent (0.5%) of the adjusted value of the taxable property of the county, to be determined under IC 36-1-15.

(e) It is not necessary to obtain:

(1) the authorization of the county council; or

(2) the appropriation by the county council;

for any money for the payment of the bonds authorized under this

section or the interest on the bonds.

(f) A county executive may issue bonds in the name of a county to fund or refund a loan or loans as authorized by this chapter.

(g) A bond for world war memorials shall be issued in any denomination of not more than one thousand dollars (\$1,000) each and in not less than twenty (20) or more than fifty (50) series.

(h) Each bond series is to be for an amount determined by the county executive and shall be payable one (1) series each year, beginning on July 1 of the fifth year after the bonds are issued.

(i) A bond shall be negotiable as inland bills of exchange and shall bear interest at a rate not exceeding five percent (5%) per annum, payable semiannually on July 1 and January 1 of each year.

(j) A bond shall be exempt from taxation for any and all purposes.

(k) All proceeds of bonds issued and sold under this chapter by a county, including any premium, shall be kept in a separate and specific fund to be known as the world war memorial fund.

(l) Any surplus remaining in a world war memorial fund after all the demands of the county have been paid and discharged shall be transferred by the county executive to the world war memorial bond funds.

(m) A series of bonds issued under this chapter may not be for less than one-fiftieth (1/50) of the total amount of bonds issued.

(n) A suit to question the validity of bonds authorized to be issued by this chapter may not be instituted after the date set for the sale of the bonds. All bonds are incontestable for any cause except for excess of constitutional limit.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-5

Taxes levied for bonds

Sec. 5. (a) If a county issues bonds for a world war memorial under this chapter, the county fiscal body, county executive, and any other county official who fixes rates or levies taxes shall yearly tax all real and personal property within the county at a rate on each one hundred dollars (\$100) of taxable property to meet the interest and principal on world war memorial bonds as they mature.

(b) Taxes levied for world war memorial bonds:

(1) shall be collected by the treasurer of a county or other proper officer in the same manner as other taxes are collected and enforced;

(2) shall be kept in a separate fund to be known as the world war memorial bond fund;

(3) shall be applied to the payment of the bonds issued under this chapter and interest as the bonds mature; and

(4) shall be deposited in an interest earning account with one (1) or more of the depositories in the county, with all interest earned becoming a part of the fund.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-6

Design and construction plan

Sec. 6. (a) A county executive establishing a world war memorial shall adopt a design and a plan for the construction of a world war memorial.

(b) A county executive:

- (1) may employ architects and other personnel necessary to design and supervise the building of a world war memorial; and
- (2) shall not adopt any design or plan for a world war memorial that, together with the cost of real estate and other expenses for the establishment of the memorial, exceeds the amount authorized for the project. However, this limitation may not restrict the right of a county executive to enter into any contract with any city located in the county for the joint construction of a world war memorial.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-7**Changes to design or plan**

Sec. 7. All changes made in the designs or plans for a world war memorial are subject to the following:

- (1) Changes must be agreed upon in writing, in advance, between the county executive and the contractor and architect.
- (2) Compensation may not be paid for design or plan changes.
- (3) Changes may not be made that will increase the total cost of the world war memorial.
- (4) Changes may not affect the obligation of or release any surety or bondsmen on any contract or bond executed or given in connection with the building of the world war memorial. However, the liability shall be extended to embrace and cover the changes.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-8**Architect's bond and compensation**

Sec. 8. The architect employed to supervise the building of world war memorial structures:

- (1) shall, at the time of employment, execute a proper bond in an amount fixed by the county executive and with surety to the approval of the county executive;
- (2) is liable on the bond for:
 - (A) any failure in faithfully discharging duties;
 - (B) all losses and damages that may be incurred on account of negligence; or
 - (C) violating this chapter; and
- (3) is entitled to receive compensation as agreed upon in advance.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-9**Contracts; notice; bonds and sureties**

Sec. 9. (a) If a county executive has adopted designs or plans for the construction of world war memorial structures as provided in section 6 of this chapter, the county executive shall:

(1) contract with a reliable contractor for all or any part of the construction of the world war memorial structure, as provided in this chapter; and

(2) publish for at least three (3) weeks, one (1) time each week, in a newspaper of general circulation published in the county a notice informing the public and contractors:

(A) of the nature of the structures to be constructed;

(B) that the designs and plans are on file in the office of the county executive; and

(C) that sealed proposals for contractors to work on the construction of the world war memorial are due not earlier than thirty (30) days from the first published notice.

(b) A county executive shall, by order, impose conditions upon:

(1) bidders;

(2) contractors;

(3) subcontractors; and

(4) materialmen;

with regard to bond and surety and guaranteeing the faithful completion of work according to contract.

(c) All contracts with builders, architects, or materialmen must reserve to the county executive for good cause shown the right to cancel a contract and to relet work to others. If a contract is canceled, at least ten percent (10%) shall be reserved from payments on estimates on work done in progress until the contracts are completed and the work done, inspected, and accepted by the county executive.

(d) A payment, partial or final, may not be construed as a waiver of defective work or materials or as a release for damages on account of defective work or materials.

(e) A surety may not be released from any obligation on its bond if the contractor is paid the whole or any part of the percentages required to be reserved from current estimates. A surety may not be released by any final payment made to the contractor.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-10

Joint city and county contracts; county bonds

Sec. 10. (a) If a county has appropriated money to be used by the county executive under this chapter, the county executive may enter into a contract with any city located in the county for the joint acquisition of real estate for a world war memorial.

(b) Contracts between counties and cities for the joint acquisition of real estate for developing a world war memorial shall be made through the city's board of public works with the approval of the mayor.

(c) If a county executive decides to contract with a city for the joint acquisition of real estate and development of a world war memorial, the county executive shall adopt a resolution signifying

their desire and send a certified copy of a resolution to the mayor of the city. The mayor shall refer the resolution to the board of public works for action. Within sixty (60) days after the receipt of the resolution, the board of public works shall determine by resolution whether or not the city will join with the county in the execution of any contract for any purpose authorized by this chapter.

(d) If a county and city agree to join in the acquisition of real estate to be dedicated for a world war memorial as authorized by this chapter, the county executive shall execute a contract between the county and the city describing the real estate and interests in the real estate to be acquired jointly and the costs for the county and the city. The contract shall be executed in duplicate and shall be included in the minutes of the proceedings of the county executive and of the board of public works of the city.

(e) If a county and city agree to establish a joint world war memorial, then the county executive, acting for the county, and the board of public works, with the approval of the mayor, shall execute a contract between the county and city that must provide the following:

(1) For the acquisition of real estate and the construction of a joint world war memorial suitable for the county and city.

(2) The respective parts of the total cost of the world war memorial that shall be paid by the county and by the city and the time and manner of the payments.

(3) That the acquisition of real estate and the execution of all necessary contracts for the construction of the joint world war memorial shall be made by a board of trustees consisting of five (5) members to be appointed and have the powers and perform the duties as provided in this chapter.

(4) That the total costs of the acquisition of the real estate for the joint world war memorial and the construction of the world war memorial may not exceed the amount of money appropriated by the county executive and the common council of the city.

(5) That the necessary cost and expenses for the management, maintenance, repairs, and improvement of the memorial shall be paid by the county and city in the same proportion that they contribute to the establishment of the memorial.

(6) That the contract may contain any other terms, conditions, and provisions that may be agreed upon between the county and city, not inconsistent with this chapter.

(f) The county shall pay its part due under any contract executed by the county with any city within the county under this chapter from:

(1) the general funds of the county; or

(2) the proceeds of bond issue as provided in this chapter.

(g) The county, acting through its county executive, may issue and sell bonds for the purpose of raising funds to pay its part of the cost under any contract executed by the county with any city located within the county under this chapter.

(h) The county executive shall issue and sell the necessary bonds and levy and collect the necessary taxes to pay the bonds as they mature, together with interest, all as authorized in this chapter.
As added by P.L.2-2003, SEC.9.

IC 10-18-2-11

Boards of trustees for joint city and county memorials

Sec. 11. (a) If a county enters into a contract with any city for the establishment of a joint county and city world war memorial, as provided in this chapter, there is established a board of trustees that consists of five (5) members, to be known as "Trustees of the World War Memorial for the County of _____ and the City of _____", giving the name of the county and the name of the city.

(b) The trustees shall be appointed as follows:

(1) Three (3) trustees shall be appointed by the county executive of the county.

(2) Two (2) trustees shall be appointed by the mayor of the city.

(c) One (1) of the trustees appointed by the mayor shall be appointed for a term of two (2) years and one (1) for a term of three (3) years. Subsequently, the trustees shall be appointed by the mayor for a term of three (3) years. Two (2) of the trustees appointed by the county executive shall be appointed for a term of two (2) years and one (1) for a term of three (3) years. Subsequently, the trustees shall be appointed by the county executive for a term of three (3) years.

(d) The trustees shall be selected without regard to their political affiliations. Not more than three (3) trustees may be of the same political party. The mayor may not appoint more than one (1) trustee from any political party. The county executive may not appoint more than two (2) trustees from any political party.

(e) The board of trustees must be persons of high standing and character and serve without compensation but may receive reimbursement for any reasonable expenses necessarily incurred by them in the performance of their duties.

(f) The mayor or county executive may, for just cause, based upon written charges specifically alleging the misconduct, remove any member appointed by the mayor or county executive, after notice to the trustee board and a public hearing.

(g) In case of vacancy caused by removal or otherwise, the mayor or the county executive making the original appointment shall appoint a qualified person to fill the unexpired term.

(h) Each trustee shall do the following:

(1) Execute a bond to the county and city in the sum of five thousand dollars (\$5,000), conditioned for the faithful performance of duties as a trustee, with sureties to be fixed and approved by the judge of the circuit court.

(2) Take an oath that the trustee will support the Constitution of the United States and the Constitution of the State of Indiana and will faithfully discharge all of the duties as a trustee. The oath shall be endorsed on the bond, and the bond and oath shall

be filed with the clerk of the circuit court.

(i) If a joint county and city world war memorial is established, the board of trustees shall have all the powers and perform all the duties in relation to the acquisition of the ground and the construction of the joint county and city world war memorial as provided in this chapter to be done and performed by the county executive in relation to a county world war memorial.

(j) If a joint county and city world war memorial is established, all money appropriated by the county and the city shall be disbursed upon estimates submitted by the board of trustees and certified to the proper officers of the county and city as provided for in the contract between the county and city.

(k) A board of trustees may not be established if a county contracts with a city located in the county to jointly acquire real estate and interests in the real estate to be dedicated and added to an existing war memorial operated by the state.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-12

Memorial management, maintenance, repair, or improvement

Sec. 12. The county executive shall:

(1) provide a fund as is necessary for the:

- (A) management;
- (B) maintenance;
- (C) repair; and
- (D) improvement;

of any county world war memorial;

(2) pay its part of the cost of:

- (A) management;
- (B) maintenance;
- (C) repair; and
- (D) improvement;

of any joint county and city world war memorial, as determined by contract; and

(3) raise money for the fund by taxation in the manner as provided by law for all other county expenses.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-13

Joint real estate acquisitions for state memorial

Sec. 13. (a) If a county decides to join a city located in the county to acquire real estate to be dedicated, set apart, and added to any real estate that may be designated for use or dedicated and set apart by the state as a world war memorial and other public purposes, as provided in this chapter, the county, through its county executive, shall execute proper deeds, grants, or contracts with the state to convey the real estate to the state for world war memorial and other public purposes, as authorized by this chapter.

(b) The deed, grant, or contract must provide:

(1) for the use by the county, or by the county and city jointly,

of the memorial grounds and structures; and
(2) that, to the extent of the money appropriated and used by the county in the acquisition of the memorial grounds and structures, the memorial grounds and structures shall be a county world war memorial.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-14

Memorial use and rental

Sec. 14. (a) A county executive may allow any organizations of soldiers, sailors, and marines, and others to use any structure that is part of a world war memorial constructed under this chapter as a place for meetings and headquarters.

(b) A county executive may allow a structure at a world war memorial to be used for any public purposes.

(c) A county executive shall determine the terms and conditions of leasing space at a world war memorial under this section, including:

- (1) whether to charge rent; and
- (2) if rent is charged, the rental price.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-15

Donations, gifts, devises, and bequests

Sec. 15. (a) A county may receive donations, gifts, devises, and bequests for the county executive to use in connection with a world war memorial.

(b) Any money donated to a county for its world war memorial shall be paid out upon warrants drawn by the auditor of the county, without any appropriation by the county fiscal body, to the county executive.

(c) The county may use money received as donations, gifts, or devises for the:

- (1) construction of a world war memorial, alone or with any city; or
- (2) acquisition by the county, or jointly by the county and any city located in the county, of real estate and interests in real estate to be dedicated, set apart, and added to any real estate that may have been designated for use or dedicated and set apart by the state for world war memorial and other public purposes;

as provided in this chapter.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-16

Eminent domain

Sec. 16. (a) A county executive, acting jointly with the board of public works of a city located in the county to acquire grounds, real property, and interests in real property, by purchase or condemnation for any of the purposes authorized by this chapter, may proceed under IC 32-24, together with all the powers of eminent domain

granted under this chapter.

(b) Before a county executive may purchase real property or interests in real property, by the county, jointly by the county and a city located in the county, by the county executive or board of trustees, as provided in section 11 of this chapter, or by the county executive acting jointly with the board of public works of any city located in the county, the county executive must:

(1) have the real property appraised at its true cash value by at least three (3) disinterested freeholders of the county; and

(2) may not pay more than the appraised value for any real property and interests in real property.

(c) If an owner refuses to sell real property at the appraised value, the property must be acquired by condemnation. If a county acts alone, an attorney representing the county shall conduct all the legal proceedings necessary in the purchase or condemnation of real property. The legal department of a city and an attorney representing the county, if the county and city act jointly under this chapter, shall conduct all the necessary legal proceedings, without additional compensation, for the purchase or condemnation of real property.

(d) If a county acquires real property for any of the purposes provided for by this chapter or joins with a city located in the county in the acquisition of real property for any of the purposes provided for in this chapter, the county, acting by and through its county executive, or the county, by and through its county executive acting jointly with any city located in the county, by and through its board of public works, with the approval of the mayor, may sell the buildings and improvements on the real property.

(e) The net rent or proceeds of the sale of the building and improvements on the real property at a war memorial, if the real property was acquired by the county, shall be added to and become a part of the county world war memorial fund. If the real property was acquired by the county and any city located in the county jointly, the rent and proceeds of sale shall be added to the county world war memorial fund and the city world war memorial fund in the same proportions that the city and county contributed to the acquisition of the real property, buildings, and improvements, or the county.

(f) The county and a city located in the county acting jointly, as provided in this chapter, may convey any real property acquired to the state. The contract with the state must provide for the rent of buildings and improvements on real property, until necessary to remove the buildings and improvements, and for the sale of the buildings and improvements if the real property is needed by the board of trustees for world war memorial and other public purposes. The contract must provide how the net rent or proceeds will be applied.

(g) If a county institutes proceedings to condemn any real property or interests in real property or other property under this chapter, the suit must be brought:

(1) in the name of the county;

(2) by an attorney representing the county; and

(3) at the direction of the county executive.

(h) If the joint condemnation of real property under this chapter is by a county and by a city located in the county, the suit must be brought in the name of the county, as provided in this section, and in the name of the city by its legal department, without additional compensation, at the direction of the board of public works. The county, or the county and the city jointly, may:

(1) join in one (1) action naming as defendants the owners and all persons interested in one (1) or more tracts of real property to be condemned; or

(2) institute proceedings to condemn separate tracts of real property.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-17

Issuing bonds to pay loans; refunding bonds

Sec. 17. (a) A county executive, instead of making a loan or loans as provided in section 4 of this chapter, may make a loan for a period of not more than ten (10) years for any of the purposes authorized by this chapter.

(b) A loan issued under this section must be at a rate of interest not exceeding six percent (6%) per annum, payable semiannually. The loan must be evidenced by the bonds of the county, which shall be payable at their maturity and not later than ten (10) years after the date of issue.

(c) A bond issued under this section is exempt from taxation for all purposes.

(d) If a bond issued under this section is issued for a longer period than five (5) years:

(1) at least one-fiftieth (1/50) of the total issue of the bonds must mature each year after the fifth year; and

(2) the balance of the bond must mature and be paid or refunded not later than ten (10) years after the date of issue.

(e) A county executive may refund a loan issued under this chapter with another bond issue in accordance with this chapter.

(f) A county executive may name the date when the first series of refunding bonds is due. However, the first of the series may not be for a longer period than five (5) years from the date of issue.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-18

Powers and duties of county executive or board of trustees

Sec. 18. In the establishment and maintenance of a county world war memorial, a county executive or a board of trustees of a joint county and city world war memorial has all the powers and duties conferred upon the Indiana War Memorials Commission under IC 10-18-1, in so far as the powers and duties are not inconsistent with this chapter. However, a county executive or board may not employ a secretary.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-19

Declaratory resolution

Sec. 19. (a) If a county executive desires to carry out this chapter, the county executive must adopt a declaratory resolution in substance as follows:

"Be it resolved, by the county executive of _____ County, that said county should proceed alone, or jointly with the city of _____ located in such county, to carry out the purposes of IC 10-18-2.".

(b) The resolution shall be recorded in the proceedings of the county executive. Notice of the adoption of the declaratory resolution shall be given by the county executive by the publication of the resolution in full by two (2) insertions published at least a week apart in accordance with IC 5-3-1-4.

(c) The county executive may:

- (1) appropriate money;
- (2) make loans;
- (3) issue bonds;
- (4) levy taxes; and
- (5) do everything that may be necessary to carry out this chapter.

If any bonds are issued under this chapter by a county and the bonds have to be refunded, it is not necessary for the county executive to adopt a declaratory resolution.

(d) The rights and powers of this chapter vested in any county executive may not be exhausted by being exercised one (1) or more times, but are continuing rights and powers.

(e) If there is a second or other subsequent exercise of power under this chapter by any county, it is not necessary for the county executive to adopt a declaratory resolution. Any county acting a second or subsequent time may proceed to carry out this chapter without any appropriation by the county fiscal body and without being required to comply with any other law relating to appropriations and budgets except for section 2 of this chapter.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-20

Authority to erect memorials

Sec. 20. A political subdivision (as defined in IC 36-1-2-13) or municipal corporation (as defined in IC 36-1-2-10) may erect or cause to be erected a memorial to the armed forces of World War II under the same conditions that a memorial to the armed forces of World War I may be built.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-21

No authority for injunctions

Sec. 21. A suit to enjoin the enforcement of this chapter or to prevent the levy or collection of taxes under this chapter may not be commenced.

As added by P.L.2-2003, SEC.9.

IC 10-18-2-22

Property exempt from taxation

Sec. 22. All property that is:

- (1) part of a county world war memorial;
- (2) part of a joint county and city world war memorial;
- (3) used in connection with a world war memorial; or
- (4) acquired by a county or jointly by a county and a city located in the county for any purpose authorized by this chapter;

is exempt from taxation for all purposes.

As added by P.L.2-2003, SEC.9.